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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/667,836 | 09/21/2000 | Norioki Fujimoto | JCLA6695 | 1351 |

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J.C. Patents
#114
1340 Reynolds Ave.
Irvine, CA 92614

EXAMINER

DEXTER, CLARK F

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3724

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,836

Applicant(s)

Fujimoto et al.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-13 are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1, 2, 10, 11, 13, 3 and 4, drawn to a cutting apparatus with a specific blade configuration, classified in class 83, subclass 676.
 - II. Claims 1, 2, 10, 11, 13, 5 and 6, drawn to a cutting apparatus with a specific conveying device configuration, classified in class 83, subclass 436.3.
 - III. Claims 1, 2, 10, 11, 13 and 7-9, drawn to a cutting apparatus with a specific arranging device configuration, classified in class 83, subclass 438.
 - IV. Claims 1, 2, 10, 11, 13 and 12, drawn to a cutting apparatus with a tablet casing, classified in class 83, subclass 401.
2. Claims 2-9 have been restricted such that the patentability of the invention is presumed to lie in the details of the particular group (e.g. the specific blade configuration of Group II). It is noted that if claim 2 as originally filed is part of an elected group and determined to be patentable, rejoinder of claims 2-9 will be considered. It is further noted that claim 2 is listed as part of groups II-IV but is not considered to be part any of these groups. Rather, claim 2 recites subject matter that is common to all of the groups and has been shown as part of each group for clarity (i.e., so that it is clear which claims are part of which group). Further, because claim 2 includes subject matter that is common to all of the groups, it is not considered to be independent or

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distinct from any of the groups. Therefore, claim 2 will be examined upon election of one of the groups. The same applies to claims 2, 10, 11 and 13 in that these claims are not considered to be part of any of the groups but rather are shown as part of each group for clarity since they will be examined with each group.

3. The inventions are distinct, each from the other because of the following reasons:

Group I vs Groups II-IV

4. Inventions of group I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific blade configuration of group I could be employed without the specific conveying device configuration of group II; and conversely, the specific conveying device configuration of group II could be employed without the specific blade configuration of group I. See MPEP § 806.05(d).

5. Inventions of group I and group III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific blade configuration of group I could be employed without the specific arranging device configuration of group III; and conversely, the specific arranging device configuration of group III could be employed without the specific blade configuration of group I. See MPEP § 806.05(d).

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6. Inventions of group I and group IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific blade configuration of group I could be employed without the tablet case of group IV; and conversely, the tablet case of group IV could be employed without the specific blade configuration of group I. See MPEP § 806.05(d).

Group II vs Groups III-IV

7. Inventions of group II and group III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific conveying device configuration of group II could be employed without the specific arranging device configuration of group III; and conversely, the specific arranging device configuration of group III could be employed without the specific conveying device configuration of group II. See MPEP § 806.05(d).

8. Inventions of group II and group IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific conveying device configuration of group II could be employed without the tablet case of group IV; and conversely, the tablet case of group IV could be employed without the specific conveying device configuration of group II. See MPEP § 806.05(d).

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Group III vs Group IV

9. Inventions of group III and group IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific arranging device configuration of group III could be employed without the tablet case of group IV; and conversely, the tablet case of group IV could be employed without the specific arranging device configuration of group III. See MPEP § 806.05(d).

10. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Species Election

11. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species IA - rotary blade;

Species IB - up and down blade;

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Upon election of Group I, applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 2 and 13 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

12. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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13. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
March 14, 2002